

Kansas v. Nebraska and Colorado
No. 126, Original

BEFORE	AFTER
The Republican River Compact was not being enforced.	The Republican River Compact will be enforced. Compact compliance will be verified based on clear, detailed accounting formulas that include the effects of alluvial and Ogallala well pumping and other uses in each state. Failure by any state to comply with the settlement can result in a contempt action in the U.S. Supreme Court.
Nebraska did not regulate drilling and use of wells in the lower two-thirds of the Republican River basin.	Nebraska has implemented a moratorium on drilling new wells in Nebraska above Guide Rock. Kansas and Colorado will have to maintain existing restrictions on new well drilling in northwest Kansas and Colorado.
Releases of water from Harlan County Lake to Kansas Bostwick Irrigation District were not protected from surface water diversions in Nebraska.	Releases of stored water from Harlan County Lake to Kansas Bostwick Irrigation District will be protected from all surface water diversions in Nebraska.
Nebraska did not curtail any surface water users between Harlan County Lake if any water was going past the Guide Rock diversion dam.	Beginning in 2003, any time the irrigation water supply in Harlan County Lake is less than 130,000 acre feet, Nebraska will curtail all surface water users between Harlan County Lake and Guide Rock with a priority later than February 26, 1948. Kansas and Nebraska will work with the United States to minimize bypass of flows at the diversion dam near Guide Rock. Nebraska issued 109 orders in June 2003 to curtail these uses for the 2003 irrigation season.
There was no protection for lower Republican River basin users in wet or dry years.	In dry years, when the irrigation supply in Harlan County Reservoir is less than 119,000 acre feet, Nebraska will have additional limits on its use from water derived above Guide Rock, on a two-year average beginning with the period 2005-2006. If Nebraska initiates specific early reductions in water use, its compliance may be measured on a three-year running average. Use reductions of 40,000 acre feet or more a year may need to occur in Nebraska during these critical years. Nebraska is in the process of metering all wells and intends to establish pumping limits on all irrigation wells as needed to comply. Colorado also will need to act to reduce or offset its use during most years and particularly in dry periods. Due to Kansas' actions to constrain new development since 1985, its current uses fall within settlement requirements during all but the most severe periods.
Kansas has had a moratorium on new well drilling in most of northwest Kansas since about 1984. Based on compact accounting prior to 1994, it appeared that Kansas was at or over its compact allocation in one or more subbasins and was in danger of having to cut back existing water uses to achieve compact compliance.	It appears that existing uses of water in northwest Kansas will be within Kansas' allocation of water and can continue under all but perhaps the most extreme circumstances.

Since 1994, the states have not agreed on how to calculate the water supply of the basin, each state's adjusted allocation and each state's beneficial consumptive use.	The Republican River Compact Administration groundwater model will be used to determine the effects of Ogallala and alluvial well pumping and imported water supply credits. The depletions to stream flow calculated by the model will be used in compact accounting.
It was unclear whether compact compliance should be calculated on a real-time basis, annually, or on a multiyear basis. It also was not clear whether each state's allocation was statewide or had to be calculated on a subbasin-by-subbasin basis.	Beneficial consumptive use will be limited to compact allocations on a five-year running average on a statewide basis, beginning with the period 2003-2007. States must limit their subbasin use so they do not impair another state's allocation. Basin water supply to be allocated will be determined with specified flood flows removed.
Each state claimed damages when the lawsuits were filed.	All state claims for damages incurred prior to December 15, 2002, will be dropped.
The states collected and exchanged a limited amount of data on water use in the basin.	The states will annually collect and exchange all data necessary to conduct the compact accounting and to run the groundwater model. States can monitor and verify this data.
No process was agreed to that could be used to resolve disputes.	A mandatory, nonbinding dispute resolution mechanism has been set up to deal with future compact administration and enforcement disputes.
There were no plans to improve the operational efficiency and usable water supply in the lower Republican River basin.	The states and the U.S. Bureau of Reclamation will study ways to improve operational efficiency and the usable water supply in the lower Republican River area. Kansas and Nebraska will each pay 25 percent of the cost (\$312,500) in cash or in-kind services over a three-year period beginning in fiscal year 2005. Possible projects might include increasing storage in Lovewell Reservoir or automating the Kansas Bostwick canal.
There were no plans to study the effects of nonfederal reservoirs and land terracing on the basin water supply.	The states and the United States will study the effects of nonfederal reservoirs and land terracing on the basin water supply. Kansas will pay 8.3 percent of the cost (not to exceed a total of \$83,333) in cash or in-kind services over a five-year period beginning about 2005. Each state must complete its inventory of nonfederal reservoirs by December 31, 2004.
During the 1990-1992 drought in the basin, neither Nebraska nor Colorado regulated well pumping to achieve compact compliance	The groundwater model demonstrates that both Colorado and Nebraska will need to limit existing uses, particularly during dry periods, to comply with settlement provisions. Nebraska may have to reduce its uses by 40,000 acre feet or more a year during critical years of shortage. Nebraska is currently working with its Republican River basin Natural Resource Districts to develop plans to reduce use in dry periods to comply with settlement requirements.